

EXHIBIT F

Certified copy of Post-Conviction Relief petition
filed August 27, 2009 in *Lana R. Canen v. State of Indiana*, Elkhart
Circuit Court, Cause No. 20C01-0908-PC-00018

IN THE Circuit COURT OF Elkhart COUNTY
STATE OF INDIANA

FILED
AUG 27 2009

CLERK ELKHART
CIRCUIT COURT

Lana Rae Canen

Full Name of Movant

152256

DOC Number

Case Number: 20C01-0409-MR-00118

v.

STATE OF INDIANA, RESPONDENT

POST-CONVICTION RELIEF

INSTRUCTIONS- READ CAREFULLY

In order for this motion to receive consideration by the court, it shall be in writing (legibly handwritten or typewritten), signed by the petitioner, verified before a person authorized to administer oaths, and it shall set forth in concise form the answers to each applicable question. If necessary, petitioner may furnish her answer to a particular question on the reverse side of the page or an additional blank page. Petitioner shall make it clear to which question any such continued answer refers.

This motion must be filed in the court that imposed the sentence.

Under the provisions of **Rule PC 1**, petitioner is required to include in this motion every ground known to him for vacating, setting aside or correcting her conviction and sentence. Be sure to include **every** ground.

Since every motion must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Petitioner should therefore exercise care to assure that all answers are true and correct.

If the motion is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information that establishes that petitioner will be unable to pay costs of the proceedings. When the motion is completed, the petitioner shall mail the original and two copies to the clerk of the court from which she was sentenced.

1. Place of detention:

Rockville Correctional Facility, 811 W. 50th, Rockville, IN 47872

2. Name and location of the judge and court who imposed sentence:

Terry C. Showmaker - County Courts Building - 315 South
Second Street - Elkhart, Indiana - 46516

3. The case number and the offense or offenses for which sentence was imposed:

20C01-0409-MR-00118 - Murder

4. The date upon which sentence was imposed and the terms of the sentence:

September 1, 2005 - 55 yrs in I.D.O.C., \$10,000.00 fine, \$100.00 public def. fee

5. Was the finding of guilty made:

- ☐ After a plea of guilty?
☒ After a plea of not guilty?

6. Did you appeal from the judgment of conviction?

- ☒ Yes ☐ No

7. If you answered "yes" to (6), list:

a. The name of the court to which you appealed:

Indiana Court of Appeals

b. The result in such court and the date of such result:

No relief granted.

8. State concisely all the grounds known to you for vacating, setting aside or correcting your conviction and sentence. (See Rule PC 1, Sec. 1a)

- a. Due Process - My Miranda Rights were not read to me at time of arrest. - My attorney was incompetent - There was too much publicity to allow me a fair trial - Nina Porter was offered lesser charge to testify against me.
- b. Incompetence of Counsel - Lawyer was not prepared well enough, had limited experience with cases like mine.

(If you have more grounds, use reverse side or separate sheet. However, if this is a successive petition for post-conviction relief, you may submit more than fifteen (15) additional pages, double-spaced, to provide supporting facts. You may also submit exhibits.)

9. State concisely and in the same order the facts that support each of the grounds set forth in question (8).

a. Due process rights were violated when police opened my door without a warrant and questioned me without advising me of Miranda Rights

b. see question 8

10. Prior to this petition, have you filed with respect to this conviction:

a. Any petition for post conviction relief pursuant to Rule PC 1 or PC 2?

☐ Yes ☒ No

b. Any petitions for habeas corpus in the state or federal courts?

☐ Yes ☒ No

c. Any petitions in the United States Supreme Court for certiorari?

☐ Yes ☒ No

d. Any other petitions, motions or applications in this or any other court?

☐ Yes ☒ No

11. If you answered "yes" to any part of (10), list with respect to each petition, motion or application:

a. Its specific nature:

i. _____

ii. _____

iii. _____

b. The name and location of the court in which each was filed:

i. _____

ii. _____

iii. _____

c. The disposition of the petition, motion or application and the date of disposition:

- i. _____
- ii. _____
- iii. _____

d. If known, citations of any written opinions or orders entered pursuant to each disposition:

- i. _____
- ii. _____
- iii. _____

12. Has any ground set forth in (8) been previously presented to this or any other court, state or federal, in any petition, motion or application, which you have filed?

☒ Yes ☐ No

13. If you answered "yes" to (12), identify:

a. Which grounds have been previously presented:

- i. Due Process Violated when police opened my door without warrant and
- ~~ii.~~ questioned me without advising me of Miranda Rights
- iii. S.F. - misconduct of trial court

b. The proceedings in which each ground was raised:

- i. MIRANDA RIGHTS AND WARRANT
- ~~ii.~~ _____
- iii. Testimony of my "alleged" control over Andrew Royer should not have been admitted into evidence over objection.

14. Were you represented by an attorney at any time during the course of:

a. Your preliminary hearing?

☒ Yes ☐ No

b. Your arraignment and plea?

☒ Yes ☐ No

c. Your trial, if any?

☒ Yes ☐ No

d. Your sentencing?

☒ Yes ☐ No

e. Your appeal, if any, from the judgment of conviction or the imposition of sentencing?

☒ Yes ☐ No

f. Preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

☐ Yes ☒ No

15. If you answered "yes" to one or more parts of (14), list:

a. The name and address of each attorney who represented you:

i. Brent Zook - Goshen Indiana

ii. _____

b. The proceedings at which each such attorney represented you:

i. Preliminary, arraignment and plea, trial, sentencing

ii. _____

c. Was said attorney:

☒ Appointed by the court?

☐ Of your own choosing?

16. Have you completed service of the challenged sentence?

☐ Yes ☒ No

17. Have you retained an attorney to represent you in this proceeding?

☐ Yes ☒ No

18. If you are without sufficient funds to employ counsel and are incarcerated in the Indiana Department of Correction, the Public Defender may represent you. If you check "NO", you lose the right to representation by the State Public Defender for the duration of this proceeding, including any subsequent appeal.

a. Do you wish to have the Public Defender represent you?

☒ Yes ☐ No

b. If yes, have you completed the Affidavit of Indigency attached to this form stating your salary (if any), amount of savings, and all property owned by you?

☒ Yes ☐ No

Lana Canen
Lana Canen
Petitioner

NOTARY STATEMENT

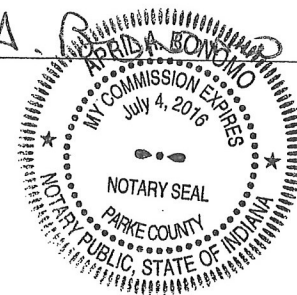
STATE OF INDIANA)
COUNTY OF PARKE) §

I, Lana Canen, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing petition; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this motion; and that the matters and allegations therein set forth are true.

Lana Canen
Lana Canen
Affiant

Subscribed and sworn to before me this Second day of April 2009.

April A. B...
Notary Public



My Commission Expires: July 4, 2016
Resident of Parke County, Indiana

STATE OF INDIANA)

COUNTY OF Elkhart) §
)

AFFIDAVIT OF INDIGENCY

Lana Canen, being first duly sworn upon her oath according to law,
deposes and says:

1. That I am an offender incarcerated at Rockville Correctional Facility, serving a state imposed sentence of 55 years;
2. That I am indigent within the meaning of the law;
3. That my total monthly salary is less than \$25.00 per month and I have no other funds available to me;
4. That I ask that all costs or fees be waived in these matters;
5. That the statements made by me in these matters are true and correct.

Further Affiant sayeth not.

Lana Canen

Lana Canen

Affiant

DOC # 152256

Indiana Department of Correction

Rockville Correctional Facility

811 W. 50 N.

Rockville, Indiana 47872

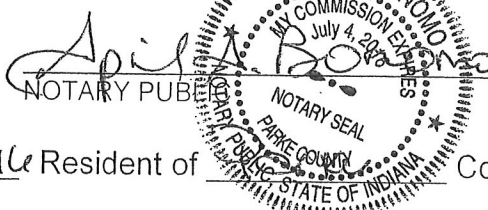
NOTARY STATEMENT

STATE OF INDIANA)

COUNTY OF PARKE) §
)

Before me April A. Bonomo, Notary Public in and for Parke County, Indiana,
personally appeared Lana Canen, and she being first duly sworn
upon her oath, states that the facts alleged in the foregoing statements are true and correct to
the best of her knowledge and belief.

DATE: April 2, 2009



My commission expires: July 4, 2016 Resident of _____ County, Indiana

- ① Nina Porter never lived at the Highrise
- ② Was victim ever checked to see if anything sexual had happen to her.
- ③ I was first questioned about this Sept. 3rd 2003 by police dept.
- ④ Nina Porter never got anything done to her when she was pulled over the night we were together
- ⑤ I was never told that she imacated me and that she had talked to Mark Daggly that night.
- ⑥ It was not unusual for me to not answer my door I didnt answer it alot of the time ^{alot of} people can state to that
- ⑦ It wasnt because I had anything to hide.
- ⑧ I never told police I was out of town for two reasons I didnt have a car that ran also I would never have told them I was out of town because I didnt know anyone out of town. I told police I was at my boyfriends house across town.
- ⑨ About agreeing to aggravating circumstances I only agreed to them on avisement of my attorney.
- ⑩ Fingerprints found on medical container but police did not check any of the prep bottles in container to see if any of them had my fingerprints on them. Why. If they found a finger print on container I would think they would also check bottles.
- ⑪ Andrew Royer never implacted me in anyway with having anything to do with this crime.

- ⑪ I let police search my apartment 4 days after this crime without a warrant, when asked about this at the trial the officer that search apart. said he did not recall that happening + attorney never pushed the issue any further.
- ⑫ If I had a guilty conscience it wasn't because I had anything to do with this crime, it was because my consciences was that someone had killed that old blind lady, for no reason she would not have been able to identify them she was blind they didn't need to kill her.
- ⑬ Guy gave me ride to my boyfriends house on Wed. night not thanksgiving night but know one seems to want to check into that.

CLERK'S CERTIFICATE

STATE OF INDIANA,

SS:

ELKHART COUNTY,

I, **Wendy Hudson**, Clerk of the Elkhart **Circuit** Court within and for the County of Elkhart and State of Indiana, the same being a Court of Record, having a Seal, do hereby certify that the above and foregoing is a full, true and complete and correct copy of the

POST-CONVICTION RELIEF

10 pages

Filed with Court on: 08/27/2009

IN RE
The State of Indiana
VS

LANA RAE CANEN
CAUSE #: 20C01-0409-MR-00118

As the same remains on file and appears of record in said Court, and of which files and records I am the legal custodian.

IN WITNESS WHEREOF, I have hereunto set
My hand and affixed the Seal of said Court at the city
of **Goshen**, Indiana, this 1st day of April, 2015.


Clerk Elkhart Circuit Court 